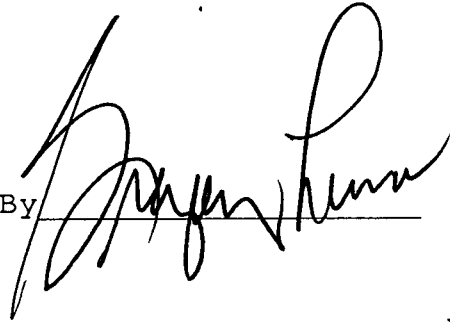


1985 APR 12 AM 9:05
HOUSE OF REPRESENTATIVES

FILED MAR 4 1985

By



I certify that the attached is a true and
correct copy of HB 1365, which
was filed of record on MAR 4 1985
and referred to the committee on:

Bus. & Com.


Chief Clerk of the House

H.B. No. 1365

A BILL TO BE ENTITLED

AN ACT

relating to certain presumptions in the prosecution of theft offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.03(c), Penal Code, is amended to read as follows:

(c) For purposes of Subsection (b)(2) of this section:

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with him, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Article 6687-1, Vernon's Texas Civil Statutes) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or

1 recklessly:

2 (A) [§] fails to record the name, address, and
3 physical description or identification number of the seller or
4 pledgor;

5 (B) [§] fails to record a complete
6 description of the property, including the serial number, if
7 reasonably available, or other identifying characteristics; or

8 (C) [§] fails to obtain a signed warranty
9 from the seller or pledgor that the seller or pledgor has the right
10 to possess the property. It is the express intent of this
11 provision that the presumption arises unless the actor complies
12 with each of the numbered requirements; [-]

13 (4) for the purposes of Subdivision (3)(A) of this
14 subsection [Subparagraph--§-above], "identification number" means
15 driver's license number, military identification number,
16 identification certificate, or other official number capable of
17 identifying an individual;

18 (5) an actor engaged in the business of obtaining
19 abandoned or wrecked motor vehicles or motor vehicle parts for
20 resale, disposal, scrap, repair, rebuilding, demolition, or other
21 form of salvage is presumed to know on receipt by the actor of
22 stolen property that the property has been previously stolen from
23 another if the actor knowingly or recklessly:

24 (A) fails to maintain an accurate and legible
25 inventory of each major motor vehicle component part purchased by
26 or delivered to the actor, including the date of purchase or
27 delivery, the name, age, address, sex, and driver's license number

1 of the seller or person making the delivery, the license plate
2 number of the motor vehicle in which the part was delivered, a
3 complete description of the part, and the vehicle identification
4 number of the motor vehicle from which the part was removed, or in
5 lieu of maintaining an inventory, fails to record the name and
6 certificate of inventory number of the person who dismantled the
7 motor vehicle from which the part was obtained;

8 (B) fails on receipt of a motor vehicle to
9 obtain a certificate of authority, sales receipt, or transfer
10 document as required by the Texas Litter Abatement Act (Article
11 4477-9a, Vernon's Texas Civil Statutes), or a certificate of title
12 showing that the motor vehicle is not subject to a lien or that all
13 recorded liens on the motor vehicle have been released; or

14 (C) fails on receipt of a motor vehicle to
15 immediately remove an unexpired license plate from the motor
16 vehicle, to keep the plate in a secure and locked place, or to
17 maintain an inventory, on forms provided by the State Department of
18 Highways and Public Transportation, of license plates kept under
19 this paragraph, including for each plate or set of plates the
20 license plate number and the make, motor number, and vehicle
21 identification number of the motor vehicle from which the plate was
22 removed; and

23 (6) an actor who purchases or receives a used or
24 secondhand motor vehicle is presumed to know on receipt by the
25 actor of the motor vehicle that the motor vehicle has been
26 previously stolen from another if the actor knowingly or
27 recklessly:

1 (A) fails to report to the State Department of
2 Highways and Public Transportation the failure of the person who
3 sold or delivered the motor vehicle to the actor to deliver to the
4 actor a properly executed certificate of title to the motor vehicle
5 at the time the motor vehicle was delivered; or

6 (B) fails to file with the county tax
7 assessor-collector of the county in which the actor received the
8 motor vehicle, not later than the 20th day after the date the actor
9 received the motor vehicle, the registration license receipt and
10 certificate of title or evidence of title delivered to the actor in
11 accordance with Section 2, Chapter 364, Acts of the 50th
12 Legislature, Regular Session, 1947 (Article 6687-6, Vernon's Texas
13 Civil Statutes), at the time the motor vehicle was delivered.

14 SECTION 2. Section 31.01, Penal Code, is amended by adding
15 Subdivisions (9) and (10) to read as follows:

16 (9) "Certificate of title" has the meaning assigned by
17 Section 24, Certificate of Title Act (Article 6687-1, Vernon's
18 Texas Civil Statutes).

19 (10) "Used or secondhand motor vehicle" means a used
20 car, as that term is defined by Section 10, Certificate of Title
21 Act (Article 6687-1, Vernon's Texas Civil Statutes).

22 SECTION 3. Section 33, Certificate of Title Act (Article
23 6687-1, Vernon's Texas Civil Statutes), is amended to read as
24 follows:

25 Sec. 33. No motor vehicle may be disposed of at a subsequent
26 sale unless the owner designated in the certificate of title
27 transfers the certificate of title, at the time the motor vehicle

1 is transferred, on a form prescribed by the Department before a
2 Notary Public. This form shall include, among such other matters
3 as the Department may determine, an affidavit to the effect that
4 the signer is the owner of the motor vehicle, and that there are no
5 liens on the motor vehicle, except such as are shown on the
6 certificate of title or are fully described in the affidavit, and
7 stating the cumulative number of miles or kilometers travelled by
8 the motor vehicle to the best of the knowledge of the transferor.
9 No title to any motor vehicle shall pass or vest until the transfer
10 is so executed.

11 SECTION 4. (a) The change in law made by this Act applies
12 only to the prosecution of an offense committed on or after the
13 effective date of this Act. For purposes of this section, an
14 offense is committed before the effective date of this Act if any
15 element of the offense occurs before the effective date.

16 (b) An offense committed before the effective date of this
17 Act is covered by the law in effect when the offense was committed,
18 and the former law is continued in effect for this purpose.

19 SECTION 5. This Act takes effect September 1, 1985.

20 SECTION 6. The importance of this legislation and the
21 crowded condition of the calendars in both houses create an
22 emergency and an imperative public necessity that the
23 constitutional rule requiring bills to be read on three several
24 days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

1st. Printing

By Luna of Bexar

H.B. No. 1365

A BILL TO BE ENTITLED

AN ACT

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(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with him, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Article 6687-1, Vernon's Texas Civil Statutes) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or

recklessly:

(A) [(i)] fails to record the name, address, and physical description or identification number of the seller or pledgor;

(B) [(ii)] fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C) [(iii)] fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements; [-]

(4) for the purposes of Subdivision (3)(A) of this subsection [Subparagraph--(i)-above], "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

(5) an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or motor vehicle parts for resale, disposal, scrap, repair, rebuilding, demolition, or other form of salvage is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to maintain an accurate and legible inventory of each major motor vehicle component part purchased by or delivered to the actor, including the date of purchase or delivery, the name, age, address, sex, and driver's license number

1 of the seller or person making the delivery, the license plate
 2 number of the motor vehicle in which the part was delivered, a
 3 complete description of the part, and the vehicle identification
 4 number of the motor vehicle from which the part was removed, or in
 5 lieu of maintaining an inventory, fails to record the name and
 6 certificate of inventory number of the person who dismantled the
 7 motor vehicle from which the part was obtained;

8 (B) fails on receipt of a motor vehicle to
 9 obtain a certificate of authority, sales receipt, or transfer
 10 document as required by the Texas Litter Abatement Act (Article
 11 4477-9a, Vernon's Texas Civil Statutes), or a certificate of title
 12 showing that the motor vehicle is not subject to a lien or that all
 13 recorded liens on the motor vehicle have been released; or

14 (C) fails on receipt of a motor vehicle to
 15 immediately remove an unexpired license plate from the motor
 16 vehicle, to keep the plate in a secure and locked place, or to
 17 maintain an inventory, on forms provided by the State Department of
 18 Highways and Public Transportation, of license plates kept under
 19 this paragraph, including for each plate or set of plates the
 20 license plate number and the make, motor number, and vehicle
 21 identification number of the motor vehicle from which the plate was
 22 removed; and

23 (6) an actor who purchases or receives a used or
 24 secondhand motor vehicle is presumed to know on receipt by the
 25 actor of the motor vehicle that the motor vehicle has been
 26 previously stolen from another if the actor knowingly or
 27 recklessly:

1 (A) fails to report to the State Department of
2 Highways and Public Transportation the failure of the person who
3 sold or delivered the motor vehicle to the actor to deliver to the
4 actor a properly executed certificate of title to the motor vehicle
5 at the time the motor vehicle was delivered; or

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7 assessor-collector of the county in which the actor received the
8 motor vehicle, not later than the 20th day after the date the actor
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20 car, as that term is defined by Section 10, Certificate of Title
21 Act (Article 6687-1, Vernon's Texas Civil Statutes).

22 SECTION 3. Section 33, Certificate of Title Act (Article
23 6687-1, Vernon's Texas Civil Statutes), is amended to read as
24 follows:

25 Sec. 33. No motor vehicle may be disposed of at a subsequent
26 sale unless the owner designated in the certificate of title
27 transfers the certificate of title, at the time the motor vehicle

1 is transferred, on a form prescribed by the Department before a
2 Notary Public. This form shall include, among such other matters
3 as the Department may determine, an affidavit to the effect that
4 the signer is the owner of the motor vehicle, and that there are no
5 liens on the motor vehicle, except such as are shown on the
6 certificate of title or are fully described in the affidavit, and
7 stating the cumulative number of miles or kilometers travelled by
8 the motor vehicle to the best of the knowledge of the transferor.
9 No title to any motor vehicle shall pass or vest until the transfer
10 is so executed.

11 SECTION 4. (a) The change in law made by this Act applies
12 only to the prosecution of an offense committed on or after the
13 effective date of this Act. For purposes of this section, an
14 offense is committed before the effective date of this Act if any
15 element of the offense occurs before the effective date.

16 (b) An offense committed before the effective date of this
17 Act is covered by the law in effect when the offense was committed,
18 and the former law is continued in effect for this purpose.

19 SECTION 5. This Act takes effect September 1, 1985.

20 SECTION 6. The importance of this legislation and the
21 crowded condition of the calendars in both houses create an
22 emergency and an imperative public necessity that the
23 constitutional rule requiring bills to be read on three several
24 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

April 22, 1985
(date)

Sir:

We, your COMMITTEE ON BUSINESS & COMMERCE, to whom was referred H.B. 1365 have had the same under consideration and beg to report back with the recommendation that it (measure)

- (XX) do pass, without amendment.
- () do pass, with amendment(s).
- () do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (XX) yes () no An actuarial analysis was requested. () yes (XX) no

An author's fiscal statement was requested. () yes (XX) no

The Committee recommends that this measure be placed on the ~~(Local)~~ or ~~(Consent)~~ Calendar.

This measure () proposes new law. (X) amends existing law.

House Sponsor of Senate Measure n/a

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Jackson, Ch.	✓			
Arnold, V.C.	✓			
Oliveira, C.B.O.	✓			
Berlanga				✓
Glossbrenner	✓			
Hill, A.	✓			
Riley	✓			
Robnett	✓			
Smith, R.	✓			

Total
8 aye
0 nay
0 present, not voting
1 absent

Lee F Jackson
CHAIRMAN
Laura Calyer
COMMITTEE COORDINATOR

BILL ANALYSIS

Background

Under current law (Section 31.03(c), Penal Code) to prosecute an individual involved in fencing stolen motor vehicles or vehicle parts requires that knowledge or a presumption of knowledge be established. By making a record of the seller's name, address, and identification number; the serial number of the property; and a signed warranty of legal possession the motor vehicle salvage operator is relieved of a presumption of knowledge.

Purpose

H.B. 1365 would establish a presumption of knowledge if the salvage vehicle business operator failed to maintain the records on a used vehicle or part.

Section by Section Analysis

SECTION 1. Amends Section 31.03(c), Penal Code, to establish a presumption of knowledge if (A) a salvage business operator fails to maintain an accurate and legible inventory of vehicles and parts; and information on the seller; (B) fail to obtain a certificate of title or transfer document; and (C) fails to remove and safely store an unexpired license plate.

Knowledge will be presumed if the business operator fails to report a vehicle delevered without a certificate of title to the Highway Department or fails to file with the county tax-assessor/collector certificate of title received by sale.

SECTION 2. Amends Section 31.01, Penal Code, to include definitions of a "certificate of title" and "used or second hand motor vehicle."

SECTION 3. Amends Section 33, Certificate of Title Act, Article 6687-1, Vernon's Texas Civil Statutes, to require title transfer at the time the motor vehicle is transferred.

SECTION 4. Act applies to an offense committed on or after the effective date. Current law is continued in effect to govern all prior offenses.

SECTION 5. Effective Date: September 1, 1985.

SECTION 6. Emergency Clause.

Rulemaking Authority

This bill does not delegate rulemaking authority to a state agency, officer, department, or institution.

Summary of Committee Action

Public notice was posted in accordance with Rule 4, Section 12, Rules and Procedures of the House of Representatives for a public hearing to be held April 15, 1985.

On April 15, 1985 the following witnesses testified FOR H.B. 1365:

Roy Newman, Assistant Service Commander, Motor Vehicle Theft Service, Texas Department of Public Safety, 5805 N. Lamar, Austin, Texas 78773.

Edward J. Coffey, Assistant District Attorney, Bexar County, Bexar County Courthouse, San Antonio, Texas 78205.

Present in support of H.B. 1365 was Minda Welch, Executive Vice President, San Antonio Automobile Dealers Association, 4414 Center View #140, San Antonio Texas 78228; however, she did not testify.

The bill was referred to a subcommittee composed of the following members: Oliveira (Chair), Arnold, and Riley.

On April 18, 1985 the subcommittee reported H.B. 1365 to the full committee by a record vote of 3 ayes and no nays.

On April 22, 1985 the full committee voted to report H.B. 1365 to the House with the recommendation that it do pass, by a record vote of 8 ayes and no nays.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 12, 1985

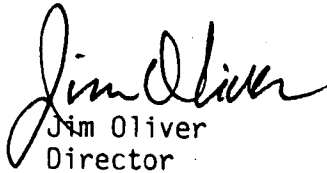
Honorable Lee F. Jackson, Chair
Committee on Business and Commerce
House of Representatives
Austin, Texas

In Re: House Bill No. 1365
By: G. Luna

Sir:

In response to your request for a Fiscal Note on House Bill No. 1365 (relating to certain presumptions in the prosecution of theft offenses) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.


Jim Oliver
Director

Source: LBB Staff: JO, JH, HF, PA

HOUSE ENGROSSMENT

1905 MAY 13 PM 8:00

HOUSE OF REPRESENTATIVES

By Luna of Bexar

H.B. No. 1365

A BILL TO BE ENTITLED

AN ACT

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(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with him, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Article 6687-1, Vernon's Texas Civil Statutes) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or

recklessly:

(A) [§] fails to record the name, address, and physical description or identification number of the seller or pledgor;

(B) [§] fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C) [§] fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements; [7]

(4) for the purposes of Subdivision (3)(A) of this subsection [~~Subparagraph--(i)-above~~], "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

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(A) fails to maintain an accurate and legible inventory of each major motor vehicle component part purchased by or delivered to the actor, including the date of purchase or delivery, the name, age, address, sex, and driver's license number

1 of the seller or person making the delivery, the license plate
2 number of the motor vehicle in which the part was delivered, a
3 complete description of the part, and the vehicle identification
4 number of the motor vehicle from which the part was removed, or in
5 lieu of maintaining an inventory, fails to record the name and
6 certificate of inventory number of the person who dismantled the
7 motor vehicle from which the part was obtained;

8 (B) fails on receipt of a motor vehicle to
9 obtain a certificate of authority, sales receipt, or transfer
10 document as required by the Texas Litter Abatement Act (Article
11 4477-9a, Vernon's Texas Civil Statutes), or a certificate of title
12 showing that the motor vehicle is not subject to a lien or that all
13 recorded liens on the motor vehicle have been released; or

14 (C) fails on receipt of a motor vehicle to
15 immediately remove an unexpired license plate from the motor
16 vehicle, to keep the plate in a secure and locked place, or to
17 maintain an inventory, on forms provided by the State Department of
18 Highways and Public Transportation, of license plates kept under
19 this paragraph, including for each plate or set of plates the
20 license plate number and the make, motor number, and vehicle
21 identification number of the motor vehicle from which the plate was
22 removed; and

23 (6) an actor who purchases or receives a used or
24 secondhand motor vehicle is presumed to know on receipt by the
25 actor of the motor vehicle that the motor vehicle has been
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15 Subdivisions (9) and (10) to read as follows:

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17 Section 24, Certificate of Title Act (Article 6687-1, Vernon's
18 Texas Civil Statutes).

19 (10) "Used or secondhand motor vehicle" means a used
20 car, as that term is defined by Section 10, Certificate of Title
21 Act (Article 6687-1, Vernon's Texas Civil Statutes).

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3 as the Department may determine, an affidavit to the effect that
4 the signer is the owner of the motor vehicle, and that there are no
5 liens on the motor vehicle, except such as are shown on the
6 certificate of title or are fully described in the affidavit, and
7 stating the cumulative number of miles or kilometers travelled by
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9 No title to any motor vehicle shall pass or vest until the transfer
10 is so executed.

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13 effective date of this Act. For purposes of this section, an
14 offense is committed before the effective date of this Act if any
15 element of the offense occurs before the effective date.

16 (b) An offense committed before the effective date of this
17 Act is covered by the law in effect when the offense was committed,
18 and the former law is continued in effect for this purpose.

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21 crowded condition of the calendars in both houses create an
22 emergency and an imperative public necessity that the
23 constitutional rule requiring bills to be read on three several
24 days in each house be suspended, and this rule is hereby suspended.

1 By: Luna of Bexar (Senate Sponsor - Krier) H.B. No. 1365
2 (In the Senate - Received from the House May 14, 1985;
3 May 15, 1985, read first time and referred to Committee on Criminal
4 Justice; May 23, 1985, reported favorably, as amended; May 23,
5 1985, sent to printer.)

6 COMMITTEE AMENDMENT NO. 1

By: Glasgow

7 Amend H.B. 1365, page 1, by deleting line 54 and substituting
8 in its place the following language:

9 "abandoned or wrecked motor vehicles or parts of an abandoned or
10 wrecked motor vehicle for"

11 A BILL TO BE ENTITLED
12 AN ACT

13 relating to certain presumptions in the prosecution of theft
14 offenses.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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20 participated in recent transactions other than, but similar to,
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24 (2) the testimony of an accomplice shall be
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28 (3) an actor engaged in the business of buying and
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32 motor vehicle subject to Article 6687-1, Vernon's Texas Civil
33 Statutes) that the property has been previously stolen from another
34 if the actor pays for or loans against the property \$25 or more (or
35 consideration of equivalent value) and the actor knowingly or
36 recklessly:

37 (A) [(1)] fails to record the name, address, and
38 physical description or identification number of the seller or
39 pledgor;

40 (B) [(2)] fails to record a complete
41 description of the property, including the serial number, if
42 reasonably available, or other identifying characteristics; or

43 (C) [(3)] fails to obtain a signed warranty
44 from the seller or pledgor that the seller or pledgor has the right
45 to possess the property. It is the express intent of this
46 provision that the presumption arises unless the actor complies
47 with each of the numbered requirements; [-]

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51 identification certificate, or other official number capable of
52 identifying an individual;

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61 or delivered to the actor, including the date of purchase or
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63 of the seller or person making the delivery, the license plate
64 number of the motor vehicle in which the part was delivered, a
65 complete description of the part, and the vehicle identification
66 number of the motor vehicle from which the part was removed, or in
67 lieu of maintaining an inventory, fails to record the name and

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 2 motor vehicle from which the part was obtained;

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 15 license plate number and the make, motor number, and vehicle
 16 identification number of the motor vehicle from which the plate was
 17 removed; and

18 (6) an actor who purchases or receives a used or
 19 secondhand motor vehicle is presumed to know on receipt by the
 20 actor of the motor vehicle that the motor vehicle has been
 21 previously stolen from another if the actor knowingly or
 22 recklessly:

23 (A) fails to report to the State Department of
 24 Highways and Public Transportation the failure of the person who
 25 sold or delivered the motor vehicle to the actor to deliver to the
 26 actor a properly executed certificate of title to the motor vehicle
 27 at the time the motor vehicle was delivered; or

28 (B) fails to file with the county tax
 29 assessor-collector of the county in which the actor received the
 30 motor vehicle, not later than the 20th day after the date the actor
 31 received the motor vehicle, the registration license receipt and
 32 certificate of title or evidence of title delivered to the actor in
 33 accordance with Section 2, Chapter 364, Acts of the 50th
 34 Legislature, Regular Session, 1947 (Article 6687-6, Vernon's Texas
 35 Civil Statutes), at the time the motor vehicle was delivered.

36 SECTION 2. Section 31.01, Penal Code, is amended by adding
 37 Subdivisions (9) and (10) to read as follows:

38 (9) "Certificate of title" has the meaning assigned by
 39 Section 24, Certificate of Title Act (Article 6687-1, Vernon's
 40 Texas Civil Statutes).

41 (10) "Used or secondhand motor vehicle" means a used
 42 car, as that term is defined by Section 10, Certificate of Title
 43 Act (Article 6687-1, Vernon's Texas Civil Statutes).

44 SECTION 3. Section 33, Certificate of Title Act (Article
 45 6687-1, Vernon's Texas Civil Statutes), is amended to read as
 46 follows:

47 Sec. 33. No motor vehicle may be disposed of at a subsequent
 48 sale unless the owner designated in the certificate of title
 49 transfers the certificate of title, at the time the motor vehicle
 50 is transferred, on a form prescribed by the Department before a
 51 Notary Public. This form shall include, among such other matters
 52 as the Department may determine, an affidavit to the effect that
 53 the signer is the owner of the motor vehicle, and that there are no
 54 liens on the motor vehicle, except such as are shown on the
 55 certificate of title or are fully described in the affidavit, and
 56 stating the cumulative number of miles or kilometers travelled by
 57 the motor vehicle to the best of the knowledge of the transferor.
 58 No title to any motor vehicle shall pass or vest until the transfer
 59 is so executed.

60 SECTION 4. (a) The change in law made by this Act applies
 61 only to the prosecution of an offense committed on or after the
 62 effective date of this Act. For purposes of this section, an
 63 offense is committed before the effective date of this Act if any
 64 element of the offense occurs before the effective date.

65 (b) An offense committed before the effective date of this
 66 Act is covered by the law in effect when the offense was committed,
 67 and the former law is continued in effect for this purpose.

68 SECTION 5. This Act takes effect September 1, 1985.

69 SECTION 6. The importance of this legislation and the
 70 crowded condition of the calendars in both houses create an

1 emergency and an imperative public necessity that the
2 constitutional rule requiring bills to be read on three several
3 days in each house be suspended, and this rule is hereby suspended.

4 * * * * *

5 Austin, Texas
6 May 23, 1985

7 Hon. William P. Hobby
8 President of the Senate

9 Sir:

10 We, your Committee on Criminal Justice to which was referred H.B.
11 No. 1365, have had the same under consideration, and I am
12 instructed to report it back to the Senate with the recommendation
13 that it do pass, as amended, and be printed.

14 Caperton, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 12, 1985

Honorable Lee F. Jackson, Chair
Committee on Business and Commerce
House of Representatives
Austin, Texas

In Re: House Bill No. 1365
By: G. Luna

Sir:

In response to your request for a Fiscal Note on House Bill No. 1365 (relating to certain presumptions in the prosecution of theft offenses) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.


Jim Oliver
Director

Source: LBB Staff: JO, JH, HF, PA

REQUEST FOR LOCAL & UNCONTESTED CALENDAR
PLACEMENT

Hon. Roy Blake, Chairman
Administration Committee

Sir:

Pursuant to S. R. 148, notice is hereby given that HB 1365, by: G. Luna / Kuei,
was heard by the Committee on Criminal Justice on 5/22, 1985
and reported out with the recommendation that it be placed on the Local and Uncontested
Calendar.

Kuei
Chairman of the reporting committee

IMPORTANT: THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL OR RESOLUTION, WHICH ALONG WITH 10 ADDITIONAL COPIES OF THE BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE COMMITTEE ON ADMINISTRATION, ROOM 1008 SAM HOUSTON BUILDING. PLEASE CALL 5-1134 IF YOU HAVE ANY QUESTIONS. DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS 4:00 P.M. FRIDAYS.

Amendment No. 1

By

Stogor

Amend H.B. 1365, page 2, by deleting line 19 and substituting
in its place the following language:

((Insert))
"abandoned or wrecked motor vehicles or parts of an abandoned
or wrecked motor vehicle for"⁶

ADOPTED

MAY 24 1985

Betty King
Secretary of the Senate

SENATE AMENDMENTS

2nd Printing

By Luna of Bexar

H.B. No. 1365

A BILL TO BE ENTITLED

AN ACT

relating to certain presumptions in the prosecution of theft offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.03(c), Penal Code, is amended to read as follows:

(c) For purposes of Subsection (b)(2) of this section:

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with him, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Article 6687-1, Vernon's Texas Civil Statutes) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or

recklessly:

(A) [§] fails to record the name, address, and physical description or identification number of the seller or pledgor;

(B) [§] fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C) [§] fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements; [-]

(4) for the purposes of Subdivision (3)(A) of this subsection [Subparagraph--§-above], "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

(5) an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or motor vehicle parts for resale, disposal, scrap, repair, rebuilding, demolition, or other form of salvage is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to maintain an accurate and legible inventory of each major motor vehicle component part purchased by or delivered to the actor, including the date of purchase or delivery, the name, age, address, sex, and driver's license number

1 of the seller or person making the delivery, the license plate
 2 number of the motor vehicle in which the part was delivered, a
 3 complete description of the part, and the vehicle identification
 4 number of the motor vehicle from which the part was removed, or in
 5 lieu of maintaining an inventory, fails to record the name and
 6 certificate of inventory number of the person who dismantled the
 7 motor vehicle from which the part was obtained;

8 (B) fails on receipt of a motor vehicle to
 9 obtain a certificate of authority, sales receipt, or transfer
 10 document as required by the Texas Litter Abatement Act (Article
 11 4477-9a, Vernon's Texas Civil Statutes), or a certificate of title
 12 showing that the motor vehicle is not subject to a lien or that all
 13 recorded liens on the motor vehicle have been released; or

14 (C) fails on receipt of a motor vehicle to
 15 immediately remove an unexpired license plate from the motor
 16 vehicle, to keep the plate in a secure and locked place, or to
 17 maintain an inventory, on forms provided by the State Department of
 18 Highways and Public Transportation, of license plates kept under
 19 this paragraph, including for each plate or set of plates the
 20 license plate number and the make, motor number, and vehicle
 21 identification number of the motor vehicle from which the plate was
 22 removed; and

23 (6) an actor who purchases or receives a used or
 24 secondhand motor vehicle is presumed to know on receipt by the
 25 actor of the motor vehicle that the motor vehicle has been
 26 previously stolen from another if the actor knowingly or
 27 recklessly:

1 (A) fails to report to the State Department of
2 Highways and Public Transportation the failure of the person who
3 sold or delivered the motor vehicle to the actor to deliver to the
4 actor a properly executed certificate of title to the motor vehicle
5 at the time the motor vehicle was delivered; or

6 (B) fails to file with the county tax
7 assessor-collector of the county in which the actor received the
8 motor vehicle, not later than the 20th day after the date the actor
9 received the motor vehicle, the registration license receipt and
10 certificate of title or evidence of title delivered to the actor in
11 accordance with Section 2, Chapter 364, Acts of the 50th
12 Legislature, Regular Session, 1947 (Article 6687-6, Vernon's Texas
13 Civil Statutes), at the time the motor vehicle was delivered.

14 SECTION 2. Section 31.01, Penal Code, is amended by adding
15 Subdivisions (9) and (10) to read as follows:

16 (9) "Certificate of title" has the meaning assigned by
17 Section 24, Certificate of Title Act (Article 6687-1, Vernon's
18 Texas Civil Statutes).

19 (10) "Used or secondhand motor vehicle" means a used
20 car, as that term is defined by Section 10, Certificate of Title
21 Act (Article 6687-1, Vernon's Texas Civil Statutes).

22 SECTION 3. Section 33, Certificate of Title Act (Article
23 6687-1, Vernon's Texas Civil Statutes), is amended to read as
24 follows:

25 Sec. 33. No motor vehicle may be disposed of at a subsequent
26 sale unless the owner designated in the certificate of title
27 transfers the certificate of title, at the time the motor vehicle

1 is transferred, on a form prescribed by the Department before a
2 Notary Public. This form shall include, among such other matters
3 as the Department may determine, an affidavit to the effect that
4 the signer is the owner of the motor vehicle, and that there are no
5 liens on the motor vehicle, except such as are shown on the
6 certificate of title or are fully described in the affidavit, and
7 stating the cumulative number of miles or kilometers travelled by
8 the motor vehicle to the best of the knowledge of the transferor.
9 No title to any motor vehicle shall pass or vest until the transfer
10 is so executed.

11 SECTION 4. (a) The change in law made by this Act applies
12 only to the prosecution of an offense committed on or after the
13 effective date of this Act. For purposes of this section, an
14 offense is committed before the effective date of this Act if any
15 element of the offense occurs before the effective date.

16 (b) An offense committed before the effective date of this
17 Act is covered by the law in effect when the offense was committed,
18 and the former law is continued in effect for this purpose.

19 SECTION 5. This Act takes effect September 1, 1985.

20 SECTION 6. The importance of this legislation and the
21 crowded condition of the calendars in both houses create an
22 emergency and an imperative public necessity that the
23 constitutional rule requiring bills to be read on three several
24 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 1365

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 12, 1985

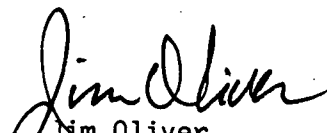
Honorable Lee F. Jackson, Chair
Committee on Business and Commerce
House of Representatives
Austin, Texas

In Re: House Bill No. 1365
By: G. Luna

Sir:

In response to your request for a Fiscal Note on House Bill No. 1365 (relating to certain presumptions in the prosecution of theft offenses) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.


Jim Oliver
Director

Source: LBB Staff: JO, JH, HF, PA

F

ENROLLED

H.B. No. 1365

AN ACT

relating to certain presumptions in the prosecution of theft offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.03(c), Penal Code, is amended to read as follows:

(c) For purposes of Subsection (b)(2) of this section:

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with him, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Article 6687-1, Vernon's Texas Civil Statutes) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or

recklessly:

(A) [(i)] fails to record the name, address, and physical description or identification number of the seller or pledgor;

(B) [(ii)] fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C) [(iii)] fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements; [-]

(4) for the purposes of Subdivision (3)(A) of this subsection [Subparagraph--(i)-above], "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

(5) an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or parts of an abandoned or wrecked motor vehicle for resale, disposal, scrap, repair, rebuilding, demolition, or other form of salvage is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to maintain an accurate and legible inventory of each major motor vehicle component part purchased by or delivered to the actor, including the date of purchase or

1 delivery, the name, age, address, sex, and driver's license number
 2 of the seller or person making the delivery, the license plate
 3 number of the motor vehicle in which the part was delivered, a
 4 complete description of the part, and the vehicle identification
 5 number of the motor vehicle from which the part was removed, or in
 6 lieu of maintaining an inventory, fails to record the name and
 7 certificate of inventory number of the person who dismantled the
 8 motor vehicle from which the part was obtained;

9 (B) fails on receipt of a motor vehicle to
 10 obtain a certificate of authority, sales receipt, or transfer
 11 document as required by the Texas Litter Abatement Act (Article
 12 4477-9a, Vernon's Texas Civil Statutes), or a certificate of title
 13 showing that the motor vehicle is not subject to a lien or that all
 14 recorded liens on the motor vehicle have been released; or

15 (C) fails on receipt of a motor vehicle to
 16 immediately remove an unexpired license plate from the motor
 17 vehicle, to keep the plate in a secure and locked place, or to
 18 maintain an inventory, on forms provided by the State Department of
 19 Highways and Public Transportation, of license plates kept under
 20 this paragraph, including for each plate or set of plates the
 21 license plate number and the make, motor number, and vehicle
 22 identification number of the motor vehicle from which the plate was
 23 removed; and

24 (6) an actor who purchases or receives a used or
 25 secondhand motor vehicle is presumed to know on receipt by the
 26 actor of the motor vehicle that the motor vehicle has been
 27 previously stolen from another if the actor knowingly or

1 recklessly:

2 (A) fails to report to the State Department of
3 Highways and Public Transportation the failure of the person who
4 sold or delivered the motor vehicle to the actor to deliver to the
5 actor a properly executed certificate of title to the motor vehicle
6 at the time the motor vehicle was delivered; or

7 (B) fails to file with the county tax
8 assessor-collector of the county in which the actor received the
9 motor vehicle, not later than the 20th day after the date the actor
10 received the motor vehicle, the registration license receipt and
11 certificate of title or evidence of title delivered to the actor in
12 accordance with Section 2, Chapter 364, Acts of the 50th
13 Legislature, Regular Session, 1947 (Article 6687-6, Vernon's Texas
14 Civil Statutes), at the time the motor vehicle was delivered.

15 SECTION 2. Section 31.01, Penal Code, is amended by adding
16 Subdivisions (9) and (10) to read as follows:

17 (9) "Certificate of title" has the meaning assigned by
18 Section 24, Certificate of Title Act (Article 6687-1, Vernon's
19 Texas Civil Statutes).

20 (10) "Used or secondhand motor vehicle" means a used
21 car, as that term is defined by Section 10, Certificate of Title
22 Act (Article 6687-1, Vernon's Texas Civil Statutes).

23 SECTION 3. Section 33, Certificate of Title Act (Article
24 6687-1, Vernon's Texas Civil Statutes), is amended to read as
25 follows:

26 Sec. 33. No motor vehicle may be disposed of at a subsequent
27 sale unless the owner designated in the certificate of title

1 transfers the certificate of title, at the time the motor vehicle
 2 is transferred, on a form prescribed by the Department before a
 3 Notary Public. This form shall include, among such other matters
 4 as the Department may determine, an affidavit to the effect that
 5 the signer is the owner of the motor vehicle, and that there are no
 6 liens on the motor vehicle, except such as are shown on the
 7 certificate of title or are fully described in the affidavit, and
 8 stating the cumulative number of miles or kilometers travelled by
 9 the motor vehicle to the best of the knowledge of the transferor.
 10 No title to any motor vehicle shall pass or vest until the transfer
 11 is so executed.

12 SECTION 4. (a) The change in law made by this Act applies
 13 only to the prosecution of an offense committed on or after the
 14 effective date of this Act. For purposes of this section, an
 15 offense is committed before the effective date of this Act if any
 16 element of the offense occurs before the effective date.

17 (b) An offense committed before the effective date of this
 18 Act is covered by the law in effect when the offense was committed,
 19 and the former law is continued in effect for this purpose.

20 SECTION 5. This Act takes effect September 1, 1985.

21 SECTION 6. The importance of this legislation and the
 22 crowded condition of the calendars in both houses create an
 23 emergency and an imperative public necessity that the
 24 constitutional rule requiring bills to be read on three several
 25 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 1365

President of the Senate

Speaker of the House

I certify that H.B. No. 1365 was passed by the House on May 13, 1985, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1365 on May 26, 1985, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 1365 was passed by the Senate, with amendments, on May 24, 1985, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

H. B. No.

1365

By

[Signature]

A BILL TO BE ENTITLED

AN ACT

relating to certain presumptions in the prosecution of theft offenses.

MAR 4 1985

1. Filed with the Chief Clerk.

MAR 7 1985

2. Read first time and Referred to Committee on

Business & Commerce

4-22-85

3. Reported favorably (~~as amended~~) (~~as substituted~~) and sent to Printer at 1:25 P.M.

APR 25 1985

4. Printed and distributed at 10:23 A.M.

APR 24 1985

APR 25 1985

5. Sent to Committee on Calendars at 2:56 P.M.

MAY 9 1985

6. Read second time (~~amended~~); passed to third reading (~~failed~~) by (Non-Record Vote) (~~Record Vote of~~ years, nays, present, not voting).

7. Motion to reconsider and table the vote by which H.B. was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of years, nays, and present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of years, nays, and present, not voting.

MAY 13 1985

9. Read third time (~~amended~~); finally passed (~~failed~~) by (Non-Record Vote) (~~Record Vote of~~ years, nays, present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of years, nays, and present, not voting).

MAY 13 1985

12. Ordered Engrossed at 4:04 pm

MAY 13 1985

13. Engrossed.

MAY 13 1985

14. Returned to Chief Clerk at 8:00 pm

MAY 14 1985

15. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 14 1985

16. Received from the House

MAY 15 1985

17. Read, referred to Committee on CRIMINAL JUSTICE

MAY 23 1985

18. Reported favorably as amended

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by (a viva voce vote.) (years, nays.)

MAY 24 1985

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

23. Read second time amended passed to third reading by: (a viva voce vote.) _____ yeas, _____ nays.)

MAY 24 1985

24. Caption ordered amended to conform to body of bill.

MAY 24 1985

25. Senate and Constitutional 3-Day Rules suspended by vote of 28 yeas, 1 nays to place bill on third reading and final passage.

MAY 24 1985

26. Read third time and passed by

(a viva voce vote.)
(29 yeas, 0 nays.)

OTHER ACTION:

OTHER ACTION:

Betty King
Secretary of the Senate

May 24, 1985

27. Returned to the House.

MAY 24 1985

28. Received from the Senate (with amendments.)
(~~as substituted.~~)

MAY 26 1985

29. House (Concurred) (~~Refused to Concur~~) in Senate (Amendments) by a (Non-Record) Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 26 1985

32. Ordered Enrolled at 2:49 pm

MAY 25 1985

1985 MAY -9 PM 7:09

MAY 25 1985

HOUSE OF REPRESENTATIVES

HOUSE OF REPRESENTATIVES

MAY 13 1985

501

President of the Senate

Speaker of the House

I certify that H.B. No. 1365 was passed by the House on
(1)

May 13, 1985, by a non-record vote;
(2)

and that the House concurred in Senate amendments to H.B. No. 1365

on May 26, 1985, by a non-record vote.
(3)

Chief Clerk of the House

**** Preparation: 'A;CT64;

I certify that H.B. No. 1365 was passed by the Senate, with
(1)

amendments, on May 24, 1985, by the
(2)

following vote: Yeas 29, Nays 0.
(3) (4)

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: 'A;CT14;